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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,073	01/25/2005	Peter James Duffett-Smith	47944	3776

1609 7590 05/27/2008

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.  
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WASHINGTON,, DC 20036

EXAMINER
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BOLOURCHI, NADER

ART UNIT	PAPER NUMBER
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2611

MAIL DATE	DELIVERY MODE
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05/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,073

**Applicant(s)**

DUFFETT-SMITH ET AL.

**Examiner**

NADER BOLOURCHI

**Art Unit**

2611

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 23-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Remarks*

1. Applicant's amendment dated 2/19/2008 is entered.
2. Specification stands objected.
3. Claim objections are withdrawn.
4. Claims stand rejected under 35 USC § 112.
5. Claims rejection under 35 USC § 101 are withdrawn.
6. Claims rejection under 35 USC § 102 are withdrawn.
7. Claims rejection under 35 USC § 103 are withdrawn.

### *Response to Arguments*

8. Applicant's arguments filed claims 1-21 and 23-33 have been fully considered but they are not persuasive.
9. The Applicants argues as follow (emphasis added):

### **Claim Objections — 35 U.S.C. § 132(a)**

The Examiner objects to the amendment filed on December 16, 2004 for purportedly introducing new matter. Applicants respectfully submit that the amended claims are supported, for example, by pages 17-19 of the published PCT application. Accordingly, withdrawal of this basis for objection to the claims is respectfully requested.

**Claim Rejections – 35 U.S.C. § 112, first paragraph**

Claims 1, 9 and 23-32 have been rejected under 35 U.S.C. § 112 first paragraph as purportedly failing to comply with the written description requirement since the Examiner believes they relate to the alleged new matter. Claims 2-8, 10-31 and 33 are also rejected due to their dependency on one of the rejected claims. Applicants respectfully submit that the amended claims and the above remarks overcome this basis for rejecting the claims.

Examiner respectfully disagrees. Pages 17-19 do not support the added material, including "page 8: lines 10-14; page9: lines 9-15; page 11: lines 13-19; page 13: lines 5-11 and lines 26-33; page 14: lines 18-24; and page 15: lines 11-17; claims 1, 9, 23-24: sections (c) and (d); claims 25 and 26: sections (b) and (c); and claims 27-32: sections 1 and 2". Therefore claims 1, 9 and 23-32 stands rejected. Claims 2-8, 10-21 and 33 are also stands rejected due to their dependency to the rejected independent claims 1, 9, and 23-32.

***Specification***

10. The disclosure is objected to because of the following informalities: the substitute specification is not being presented in a continuous and proper format and lacks proper page numbers, after page 18.

Appropriate correction is required.

**Claim Rejections - 35 USC § 112, first paragraph**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 1-21 and 23-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims 1, 9 and 23-32 contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter includes in claims 1, 9, 23-24: sections (c) and (d); claims 25 and 26: sections (b) and (c); and claims 27-32: sections 1 and 2.

Examiner notes that Applicant in the International Preliminary Examination report (PCT 409) mailed October 25, 2004 has been properly advised that (emphasis added):

Thus, it would appear that the amendments to the claims, filed with the letter of the applicant of August 11 2004, go beyond the content of the application as originally filed.

The amendments to the description, filed with the letter of the applicant dated August 11 2004, were intended to bring the description into accordance with the claims. However, as the amendments to the claims were deemed inadmissible, the subsequent amendments to the text of the description was deemed also inadmissible.

Subject to the conditions of Rule 70.2(c), the international Report is based on the application documents as originally filed.

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Claims 2-8, 10-21 and 33 are also rejected due to their dependency to the rejected independent claims 1, 9, and 23-32.

***Remarks***

12. No claim is allowed.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nader Bolourchi whose telephone number is (571) 272-8064. The examiner can normally be reached on M-F 8:30 to 4:30.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David. C. Payne can be reached on (571) 272-3024. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/David C. Payne/

Supervisory Patent Examiner, Art Unit 2611